

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

_____)	
UNITED STATES OF AMERICA,)	
)	
vs.)	CASE NO. 4:21-CR-58-1BO
)	
QUAMAIN DONELL SMITH,)	
)	
Defendant.)	
_____)	

WEDNESDAY, FEBRUARY 16, 2022
ARRAIGNMENT AND PLEA HEARING
HELD IN RALEIGH, NORTH CAROLINA
BEFORE THE HONORABLE TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

On Behalf of the Government:

AAKASH SINGH, Assistant U.S. Attorney
U.S. Attorney's Office
150 Fayetteville Street, Suite 2100
Raleigh, North Carolina 27601

On Behalf of the Defendant:

DEIRDRE A. MURRAY, Assistant Public Defender
Federal Public Defender's Office
150 Fayetteville Street, Suite 450
Raleigh, North Carolina 27601

USPO:

CHRIS EIDEN

MICHELLE A. MCGIRR, RMR, CRR, CRC
Official Court Reporter
United States District Court
Raleigh, North Carolina

(Wednesday, February 16, 2022)

P R O C E E D I N G S

(Open Court at 2:26 p.m.)

THE COURT: Quamaine Smith.

MS. MURRAY: Judge, may I have just a moment to get a signature? We do have a plea agreement.

THE COURT: All right.

MR. SINGH: Afternoon, Judge.

THE COURT: Good afternoon.

(The defendant, Quamaine Donell Smith, escorted into the courtroom at 2:28 p.m.)

(Attorney Murray conferring with the defendant at counsel table briefly off the record)

MS. MURRAY: Judge, may I approach?

THE COURT: Yes.

(Attorney Murray providing documents to the deputy clerk)

THE CLERK: Thank you.

(The deputy clerk providing documents to the Court)

THE COURT: You're Quamaine Smith?

THE DEFENDANT: Yes, sir.

THE COURT: And you're going to enter a plea of guilty?

THE DEFENDANT: Yes, sir.

THE COURT: Do you swear to tell the truth?

THE DEFENDANT: Yes, sir.

1 (The defendant, Quamaine Donell Smith, sworn by the Court)

2 THE COURT: How old are you?

3 THE DEFENDANT: 30.

4 THE COURT: And can you read, write, speak and understand
5 English?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you now taking any drugs or alcohol?

8 THE DEFENDANT: No, sir.

9 THE COURT: Have you had enough time to be prepared and
10 meet with your lawyer?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And have you -- do you understand her?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Ms. Murray, do you have any question about
15 your client's competence?

16 MS. MURRAY: No, your Honor.

17 THE COURT: Does the Government have any reason to
18 question his competence?

19 MR. SINGH: We do not, your Honor.

20 THE COURT: The Court finds the defendant's competent to
21 proceed with his plea hearing.

22 Ms. Murray, you're the Assistant Public Defender. You've
23 been appointed to represent the defendant in this case?

24 MS. MURRAY: Yes, your Honor.

25 THE COURT: Mr. Smith, are you satisfied with your

1 lawyer's work?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You have the right to have your case tried by
4 a jury of 12 persons. You're presumed by the law to be innocent.

5 You don't have to prove anything at a trial. The burden
6 is on the Government. The Government's obligated to prove you
7 guilty by proof beyond a reasonable doubt.

8 In order to do this, the Government has to bring
9 witnesses into court to testify in your presence and in the presence
10 of a jury.

11 At trial, your lawyer could object to improper evidence,
12 cross-examine the witnesses against you, present witnesses and
13 evidence.

14 You can either testify or not testify. Those are the
15 rights that you have. If you don't testify, that won't be used
16 against you.

17 When you plead guilty, you waive those rights. You give
18 them up. You won't have them as a result of your admission of
19 guilt.

20 Do you understand all those rights?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you willing to waive those by entering a
23 plea of guilty?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Have you seen a copy of your charges?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You're charged in Count One with interference
3 with commerce by robbery and aiding and abetting in that.

4 That's a 20-year crime, a fine, supervised release and
5 special assessment.

6 Count Two, you're charged with brandishing a firearm
7 during a crime of violence and aiding and abetting in that.

8 That's seven years in addition to any other punishment
9 you may receive.

10 In Count Three, you're charged with being a felon and --
11 previously being a felon and then later possessing a firearm.

12 Punishment for that is up to ten years in prison, a fine
13 and supervised release.

14 If you're an armed career criminal because of your
15 criminal history, your punishment would be 15 years to life, a fine
16 and supervised release.

17 Do you understand that those are the charges and
18 punishments that you face?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And you're entering into a plea agreement in
21 which you plead guilty to Count Two of the -- Counts One and Two of
22 the indictment and waive your right to appeal and waive your right
23 to contest the conviction in any post-conviction proceeding.

24 You waive your right to have a jury decide any of the
25 facts.

1 The elements of Counts One and Two are set out in
2 paragraph 3 on pages 4, 5 and 6 of the plea agreement.

3 Any active sentence would be without parole.

4 Pleading guilty has immigration consequences if that's a
5 factor. If it's not, it won't.

6 The Government reserves the right to present evidence
7 regarding any filings by you; and will not further prosecute you for
8 other conduct constituting the basis of this indictment. This is
9 limited to the U.S. Attorney in this district.

10 And you get a reduction in your acceptance of
11 responsibility -- by your acceptance of responsibility in your
12 Guideline range.

13 I've read and summarized the plea agreement. Is that
14 what you've agreed to?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: How do you plead then to Counts One and Two,
17 guilty or not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: Are you guilty of these?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. You can have a seat.

22 Mr. Singh.

23 MR. SINGH: Thank you, your Honor.

24 Your Honor, at approximately 11 p.m. on May 17th, 2021,
25 the New Bern Police Department responded to an armed robbery call at

1 1509 National Avenue in New Bern, North Carolina. This location is
2 the address of the Five Points gas station in New Bern.

3 At the time that the officers arrived, they encountered
4 multiple witnesses that had observed the robbery in question. They
5 collected physical evidence as well as reviewed video surveillance
6 footage from inside the business.

7 The surveillance video showed around 10:45 that day,
8 about 15 minutes before they arrived, two male subjects entered the
9 store. One was a short, white male, the other was a short, black
10 male. The white male appeared to be brandishing a tire iron or a
11 crow bar and the black male appeared to be brandishing a silver,
12 small revolver in his hand.

13 Once the two entered the robbery -- entered the store,
14 the black male subject -- who was later identified as the defendant,
15 Mr. Smith -- brandished the revolver in the face of the cashier and
16 asked for money.

17 Before the cashier was able to retrieve the money, Mr.
18 Smith is observed walking around the counter and hitting Mr.
19 Algaradi, who was the cashier, over the back of his head with the
20 revolver. The victim in that case then fell to the floor.

21 At that point, Mr. Smith and his co-defendant, Mr. Greco,
22 who pled before this Court some weeks ago, began stealing packs of
23 cigarettes from behind the counter as well as money from inside the
24 register.

25 They then fled the store on foot where they entered a

1 Honda CRV, sort of a midsize SUV, that was waiting for them in the
2 parking lot. As they were fleeing, they dropped cigarettes as well
3 as some cash from the store along their flight path. They then got
4 in the Honda and fled.

5 Some of the physical evidence that officers secured on
6 the scene were the several packs of cigarettes as well as the cash;
7 and then there was the blood on the ground from behind the counter
8 where Mr. Algaradi was hit.

9 Officers interviewed several witnesses that were on
10 scene. I think I mentioned to you at the last arraignment for the
11 co-defendant, this is a case where the witnesses were very actively
12 involved in the case. For instance, Mr. Amar Ashworth, who was one
13 of the individuals who was on scene, when he was coming up to the
14 store prior to the robbery, felt that there was something suspicious
15 about this Honda CRV that was in the parking lot and something
16 overcame him to take a photograph of the vehicle.

17 One of the things that was important about this
18 photograph was that there was a pink in color trim vinyl sticker on
19 the body of the vehicle as well as a white, diamond shaped sticker
20 in the upper, driver-side portion of the rear windshield. There was
21 also a sticker that said, baby on board. This was instrumental in
22 later identifying the suspect vehicle.

23 There were two other individuals that police spoke with.
24 A Ms. Lisa McDaniel as well as a Ms. Miesha Bryant. Both of these
25 individuals believed that they were able to identify the defendant,

1 Mr. Smith, based on prior affiliations or knowledge of who he was.
2 They informed police that they believed this person to look like an
3 individual they knew to be named "Animal," but they were not able to
4 provide a specific name. Ms. Bryant was able to say that she
5 believed the individual was named Donell Smith.

6 Law enforcement would later investigate further and
7 realize that Mr. Quamaine Donell Smith, the defendant, did have an
8 alias by the name of "Animal."

9 There was also Ms. Trinette Riviera, who I think had the
10 most active role in this. She actually got into her Cadillac
11 Escalade and chased after the defendants while they were fleeing in
12 the Honda CRV. She later flagged down New Bern Police Department
13 while they were in pursuit and identified the specific Honda CRV
14 that the defendants had fled in.

15 All together, about 400 to \$500 of cash was taken from
16 the register as well as the multiple packs of Newport cigarettes.

17 So later that day and same evening it's still going on,
18 New Bern police is still roaming around New Bern trying to find the
19 vehicle. They ended up finding a vehicle that matched the picture
20 as well as the description from witnesses.

21 This vehicle was located at 2009 Water Street. That's a
22 residence in New Bern. It belongs to a lady by the name of Tammy
23 Bryant. And her son, Justin Pickens, is believed to be the driver
24 in this case.

25 As they approached the vehicle, officers ran the

1 registration on the vehicle. It came back to the father of the
2 co-defendant, Mr. Greco. So Mr. Greco's father was the registered
3 owner of the vehicle.

4 In plain view of the vehicle they were able to see
5 multiple, unopened boxes of Newport cigarettes, which matched the
6 types of cigarettes that were taken from the store during the
7 robbery.

8 They were also able to identify the white diamond-shaped
9 sticker on the windshield as well as the baby on board sticker.

10 While they were still at 2009 Water Street conducting the
11 investigation, New Bern police observed two individuals exiting the
12 front door of that residence. Those individuals were later
13 identified as Mr. Smith and his co-defendant, Mr. Greco.

14 They were taken into custody, but first officers
15 re-reviewed the video surveillance footage to make sure the
16 individuals matched the description, stature and build from the
17 individuals of the robberies. Once they were able to do that, they
18 arrested both of them.

19 During a frisk of Mr. Greco, they found some cash,
20 Newport cigarette packs, some syringes, a cut straw and a waxy
21 substance.

22 In Mr. Smith's backpack, the officers found unopened
23 Newport cigarette packs as well as dollar bills and white powdery
24 substances.

25 While they were still on scene, they interviewed Ms.

1 Tammy Bryant who's the homeowner. Ms. Bryant identified the two
2 individuals as friends of her son. When she encountered them, they
3 had been, I guess, hiding out in the garage and at that point she
4 had informed both of them they were to exit.

5 Ms. Bryant also then provided officers a signed consent
6 to search the residence as well as the garage. And in the garage,
7 officers did recover a small revolver that matched that which was
8 used during the robbery.

9 Both defendants were taken back to the station for
10 processing. They both sat for custodial interviews. They both
11 waived their Miranda rights and they both admitted to being involved
12 in the robbery.

13 Mr. Smith waived his Miranda rights, admitted to
14 committing the robbery and also provided a written apology letter to
15 Mr. Algaradi for hitting him with the revolver.

16 The officers also searched the Honda CRV in question.
17 They found two credit cards bearing the defendant's name in the
18 driver's side door.

19 They found additional packs of cigarettes. They also
20 found that tire iron that was observed being wielded by Mr. Greco
21 during the robbery.

22 As far as the interstate nexus, your Honor, the Five
23 Points gas station sources its gasoline from Magellan Terminals
24 Holdings in Tulsa, Oklahoma.

25 And that is some of the evidence that the Government

1 would have relied on at trial to prove guilt beyond a reasonable
2 doubt.

3 THE COURT: Based on this hearing, the Court finds both
4 charges have been proved by a preponderance of the evidence.

5 The clerk is directed to enter a judgment of guilty on
6 Counts One and Two.

7 A pre-sentence report will be prepared.

8 A sentencing hearing set for the week of May 16th.

9 He'll be continued in detention awaiting the imposition
10 of sentence.

11 MS. MURRAY: Thank you, Judge.

12 MR. SINGH: Thank you, Judge.

13
14 (Hearing concluding at 2:42 p.m.)
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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA
3

4 CERTIFICATE OF OFFICIAL REPORTER
5

6 I, Michelle A. McGirr, RMR, CRR, CRC, Federal
7 Official Court Reporter, in and for the United States District Court
8 for the Eastern District of North Carolina, do hereby certify that
9 pursuant to Section 753, Title 28, United States Code, that the
10 foregoing is a true and accurate transcript of my stenographically
11 reported proceedings held in the above-entitled matter and that the
12 transcript page format is in conformance with the regulations of the
13 Judicial Conference of the United States.
14

15 Dated this 4th day of August, 2022
16

17 /s/ Michelle A. McGirr
18 MICHELLE A. MCGIRR
19 RMR, CRR, CRC
20 U.S. Official Court Reporter
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